

ISSUE DATE: January 11, 2000

DOCKET NO. E-002/M-96-1405

ORDER APPROVING POWER PURCHASE AGREEMENT WITH ST. PAUL
COGENERATION PROJECT, LLC, AUTHORIZING COMMENTS, AND REQUIRING
ANNUAL REPORT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayner

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Northern States Power
Company's Petition for a Variance From
Competitive Bidding for Biomass Phase II
Resources

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PROCEDURAL HISTORY

On January 11, 1999, NSP filed two separate requests: one for Commission approval of a power purchase agreement for 25 MW of biomass-fueled generation with St. Paul Cogeneration, LLC (District Energy) and the other for Commission approval of a power purchase agreement for 25 MW of biomass-fueled generation with EPS/Beck Power, LLC (EPS/Beck). The Company's requests were assigned to this docket, E-002/M-96-1405.

On January 22, 1999, NSP filed a corrected summary of its filing and amended Exhibit B.

On March 12, 1999, the Minnesota Department of Public Service, now the Department of Commerce, (the Department) filed its comments, recommending that the Commission impose substantial modifications and approve the two PPAs so modified.

On March 29, 1999, reply comments were filed by NSP, the Department, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), the Izaak Walton League of America (IWLA), and Sustainable Energy for Economic Development Coalition (SEED).

On April 16, 1999, Supplemental Comments were filed by EPS/Beck, NSP, the Department, the RUD-OAG, IWLA, and SEED.

On April 19, 1999, ME3 filed Supplemental Comments.

On July 6, 1999, NSP, EPS/Beck, and District Energy filed a joint motion for a protective order pursuant to Minn. Stat. § 216A.05 and 471.705.

On August 5, 1999 the Commission issued its ORDER DEFERRING CONSIDERATION OF BIOMASS GENERATION PROPOSALS in Docket No. E-002/M-96-1405. In this Order the Commission did three things:

- deferred a decision on the two 25 MW Purchased Power Agreements (PPAs) to allow EPS/Beck to develop a proposal for a 50 MW project;
- encouraged District Energy to improve upon its proposal for a 25 MW project;
- ordered NSP to meet with the Minnesota Valley Alfalfa Producers Cooperative (MnVAP) to determine the status of their project and whether some or all of the 75 MW currently committed to MnVAP is now uncommitted.

On October 11, 1999, NSP filed its Biomass Report in response to the Commission's August 5, 1999 Order.

On October 29, 1999, the Department of Commerce (the Department) filed comments on NSP's Report recommending approval of the PPA with District Energy as modified by the Letter of Intent (LOI) submitted as part of the October 11, 1999 Report.

Also on October 29, 1999, OAG-RUD filed comments supporting approval of the District Energy project.

On November 8, 1999, the IWLA supporting approval of NSP's contract with District Energy.

On November 15, 1999, NSP filed comments in response to the Department, OAG-RUD and the IWLA.

On December 10, 1999, NSP filed a letter with the Commission indicating that the 75 MW power purchase agreement with Minnesota Valley Alfalfa Producers (MnVAP) had been terminated as of December 9, 1999.

The Commission met on December 20, 1999 to consider this matter.

FINDINGS AND CONCLUSIONS

I. BACKGROUND

On August 5, 1999 the Commission issued its ORDER DEFERRING CONSIDERATION OF BIOMASS GENERATION PROPOSALS in Docket No. E-002/M-96-1405. In this Order the Commission did three things:

- deferred a decision on the two 25 MW Purchased Power Agreements (PPAs) to allow EPS/Beck to develop a proposal for a 50 MW project;
- encouraged District Energy to improve upon its proposal for a 25 MW project;
- ordered NSP to meet with the MnVAP to determine the status of their project and whether some or all of the 75 MW currently committed to MnVAP is now uncommitted.

In a separate Order in this matter dated January 11, 2000, the Commission approved NSP's power purchase agreement with EPS/Beck for 25 MW of biomass-fueled generation. The current Order addresses NSP's power purchase agreement with District Energy for a similar amount (25 MW) of biomass-fueled generation.

II. DISTRICT ENERGY'S AMENDED PPA

In its October 11, 1999 response to the Commission's August 5, 1999 *Order Deferring Consideration*, NSP filed its Biomass Report which included a Letter of Intent describing the results of further negotiations on a 25 MW project with District Energy. The letter of intent outlined amendments to the PPA, including

- a change in the pricing structure to a pay for production agreement as proposed by the Department;
- a reduction in the projected average price of electricity to a level below the base case assumptions, significantly lower than the capped average proposed by the Department when this agreement was first being considered by the Commission;
- a risk-sharing mechanism was developed to encourage some degree of fuel savings;
- agreements to
 - investigate the potential for obtaining government subsidies and, if successful, pass them on to ratepayers,
 - preserve for NSP's ratepayers the upside of dispatching inexpensive excess energy,
 - use a bidding process for project construction with any savings passed on to

- ratepayers, and
apportion some inflation risk and locking in the initial price.

III. PARTIES' COMMENTS

All parties supported this agreement and urged the Commission to approve the PPA , as amended.¹

NSP stated that the improvements made to the PPA addressed the concerns of the Department, the RUD-OAG, and the Commission and explained how the amendments did so.

The RUD-OAG noted that by deferring approval of the PPA in the August 5, 1999 Order, the Commission had brought additional competitive pressure on the parties resulting in substantial savings for ratepayers. The IWLA stated that the project clearly qualifies under the statute and was the winner in an approved competitive bidding process. IWLA also cautioned that further delay in approving the project would cause harm to both developers and NSP's rate payers.

The Department recalled that in its comments on the initial PPA between NSP and District Energy, it had recommended approval of the agreement with three modifications: 1) that there should be a cap on the average price per Mwh; 2) that the Company's payments to District Energy must be in terms of dollars per Mwh, i.e. the payment structure should be for production only; and 3) that the annual capacity factor of the District Energy project not exceed a certain level. The Department indicated that the proposed amendments to the PPA met its recommended modifications, and therefore, should be approved.

IV. COMMISSION ANALYSIS AND ACTION

The revised PPA which the Commission addresses in this Order is the District Heating 25MW PPA as amended by the Letter of Intent dated September 8, 1999 and described by NSP in its Biomass Report filed October 11, 1999 and in its comments filed November 15, 1999.

The PPA in question was entered into as part of NSP's statutory mandate (Minn. Stat. § 216B.2424, the Biomass Mandate) which requires NSP to purchase a total of 125 MW of biomass electric energy installed capacity, with up to 25MW of that generation potentially provided by a St. Paul district heating and cooling system cogeneration facility utilizing waste wood as a primary source of fuel. Minn. Stat. § 216B.2424, subd. 5. The Commission has conducted its review of District Heating's 25MW PPA pursuant to Minn. Stat. § 216B.1645

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The Department also recommended requiring NSP to file certain information at the end of each contract year, but did not condition its recommendation to approve the amended PPA on the adoption of this recommendation. As indicated below in the text of this Order at page 5, the Commission finds merit in the recommended informational filing and will direct NSP to provide this information as recommended by the Department. See Ordering Paragraph 4.

which requires the Commission to approve or disapprove PPAs entered into under the Biomass Mandate.

Having considered the comments and arguments of all the parties as well as all the documents filed in this matter, the Commission concludes that the record developed in this matter demonstrates that NSP's revised 25 MW PPA with the District Heating is reasonable and in the public interest. Accordingly, the Commission will approve this contract at this time.

In its August 5, 1999 Order deferring decision on the District Heating 25 MW project, the Commission expressed particular concern with the cost of the District Energy project. Part of the concern with the proposed project was that although it was a cogeneration facility, fueled by urban waste wood, it was still quite expensive. The renegotiations encouraged by the Commission have resulted in real, quantifiable and substantial savings to ratepayers: \$6.5 million in savings that would not have been achieved under the original contract. While the cost of electricity from this facility remains more expensive than electricity from traditional generation sources, NSP and District Energy did achieve significant cost reductions. The Commission concludes that in the context of the Biomass Mandate Statute cited previously, the resulting rate impact of the District Heating 25 MW project is reasonable.

To secure filing of the revised PPA approved herein, the Commission will direct NSP to submit a final PPA consistent with the Letter of Intent dated September 8, 1999 and as described by NSP in its October 11, 1999 Biomass Report and in its comments filed November 15, 1999. Parties will be given 15 days to comment upon the conformance of NSP's submitted PPA.

Finally, the Department's recommendation that NSP provide certain information regarding performance under the PPA is a good one. The Commission will accept it and require NSP to furnish certain information on an annual basis, as recommended by the Department and specified in Ordering Paragraph 4.

ORDER

1. NSP and District Heating's 25 MW PPA, as amended by the Letter of Intent dated September 8, 1999 and as described by NSP in its Biomass Report filed October 11, 1999 and in its comments filed November 15, 1999, is approved.
2. Within 15 days of this Order, NSP shall file with the Commission and serve upon the parties to this matter the approved PPA, as described in Ordering Paragraph 1.

3. Parties shall have 15 days from the date of service of said PPA to file comments regarding the conformance of NSP's filing to the PPA approved in Ordering Paragraph 1.
4. At the end of each contract year, NSP shall file an annual report providing the following information:
 - the total annual cost of the project;
 - the inflation rate used to escalate the fuel costs and the capacity costs;
 - the annual dollar amount of capacity costs allocated to NSP's ratepayers and the annual dollar amount of capacity costs absorbed by the project;
 - the average annual fuel costs and the annual dollar amounts of fuel costs born by NSP's ratepayers and the project respectively; and
 - the average annual price paid by NSP's ratepayers.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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